

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3315 OF 2005**

Kaluram Mangal Tarmale

...Applicant

vs.

State of Maharashtra

...Respondent

Mr.N.N.Gawankar with Mr.Arfan A.H.E.A.Sait for the Applicant
Mr.K.V.Saste, A.P.P. for the State.

**CORAM: A.S.OKA,J.
DATE : JUNE 13,2005.**

P.C.:

1. This Application is filed by the Applicant for grant of bail. An offence has been registered against the Applicant for offence punishable under Sections 302,307,324, 325, 326, 147, 148 and 149 of the Indian Penal Code. Investigation is complete and the charge sheet has been filed. The application made by the Applicant for the Bail in the Sessions court has been rejected.

2. The learned Counsel appearing for the Applicant submitted that the only allegation against the Applicant is that by using sword he has assaulted one of the witnesses. He submitted that the injury certificate shows that the injury caused is not even a grievous hurt. He submitted that considering the fact that the incident arose out of a fight between the political groups and considering the fact that the charge sheet is filed, the Applicant is entitled to be enlarged on bail. He has annexed to this Application the

orders passed by this Court in favour of the several accused in the same case who are involved in the same offence. He submitted that though strictly the Applicant is not claiming parity, the orders annexed show that the accused who have played no role in the injuring the deceased have been enlarged on bail by this Court.

3. The learned A.P.P. submitted that the three witnesses have stated that the Applicant was carrying a sword and therefore the Applicant is not entitled to bail.

4. Perusal of the statements of various witnesses shows that 28 accused have been named serially. More than one witness appears to have been named the said 26 accused serially. Moreover, the statements clearly reveal that the altercation had taken place out of political rivalry. In order dated 28th March 2005 passed by this court in case of a co-accused, this Court has rightly held that in any such incident on account of group rivalry, there is always a tendency to implicate the persons of the rival group. The name of the applicant appears in the statements of three witnesses. Only one witness has tried to ascribe a specific role to the Applicant. The said witness has stated that the assault was made on his right hand by using sword. The injury certificate of the said witness on record shows that there is incise wound on the forearm having size of 2.5 c.m. x 1.5 c.m.

5. Considering the fact that the witnesses have named large number of accused in the offence which has allegedly taken place out of political rivalry and considering the fact that there is no allegation against the Applicant regarding assault on the deceased, the case of the Applicant deserves consideration. It is to be noted here that the only injury on the person of the witness caused by the alleged assault by the Applicant is incise wound on the right hand. As stated earlier, investigation is complete. Number of accused who have not been specifically ascribed a role in the assault on the deceased have been enlarged on bail by this Court. Therefore, a case is made out for enlarging the Applicant on bail subject to the same stringent conditions which are incorporated in orders passed in favour of the co-accused.

6. Hence, Application is allowed on following terms:

a) The Applicant is directed to be released on bail in connection with C.R.No.I-96 of 2004 registered with Kalyan Taluka Police station on executing personal bond in the sum of Rs.20,000/- (Rupees twenty thousand) with one or two local sureties in the like amount.

b) The Applicant shall not influence the prosecution witnesses or tamper with the prosecution evidence in any manner whatsoever.

c) The Applicant shall not enter Thane District during the pendency of the trial, except for attending Court cases on the specified dates.

d) The Applicant shall inform his place of residence to the Investigating Officer as well as the Trial Court within one week from the date of release. In addition, the Applicant shall report to the nearest Police Station, once in a month, on first Saturday of every English Calendar Month.

e) The Applicant shall extend full co-operation to the Trial Court for early disposal of the trial and if the Trial Court is of the opinion that the Applicant is responsible for the delay of the trial, that fact be recorded in the Roznama, which will be a ground for cancellation of the bail.

. Application is disposed of in above terms.

JUDGE